

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Orlando Garcia,**

Plaintiff,

v.

**Kueui Chang Yeh;  
Hsing-Jung Lee;  
Y & L Auto Corporation, a  
California Corporation**

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Orlando Garcia complains of Kueui Chang Yeh; Hsing-Jung Lee; Y & L Auto Corporation, a California Corporation; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff suffers from Cerebral Palsy. He has manual dexterity issues. He cannot walk. He uses a wheelchair for mobility.

2. Defendants Kueui Chang Yeh and Hsing-Jung Lee owned the real property located at or about 2990 San Bruno Ave., San Francisco, California,

1 in February 2022.

2 3. Defendants Kueui Chang Yeh and Hsing-Jung Lee own the real  
3 property located at or about 2990 San Bruno Ave., San Francisco, California,  
4 currently.

5 4. Defendant Y & L Auto Corporation owned Home Gas located at or  
6 about 2990 San Bruno Ave., San Francisco, California, in February 2022.

7 5. Defendant Y & L Auto Corporation owns Home Gas (“Gas Station”)  
8 located at or about 2990 San Bruno Ave., San Francisco, California,  
9 currently.

10 6. Plaintiff does not know the true names of Defendants, their business  
11 capacities, their ownership connection to the property and business, or their  
12 relative responsibilities in causing the access violations herein complained of,  
13 and alleges a joint venture and common enterprise by all such Defendants.  
14 Plaintiff is informed and believes that each of the Defendants herein is  
15 responsible in some capacity for the events herein alleged, or is a necessary  
16 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
17 the true names, capacities, connections, and responsibilities of the  
18 Defendants are ascertained.

19  
20 **JURISDICTION & VENUE:**

21 7. The Court has subject matter jurisdiction over the action pursuant to  
22 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
23 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

24 8. Pursuant to supplemental jurisdiction, an attendant and related cause  
25 of action, arising from the same nucleus of operative facts and arising out of  
26 the same transactions, is also brought under California’s Unruh Civil Rights  
27 Act, which act expressly incorporates the Americans with Disabilities Act.

28 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is

1 founded on the fact that the real property which is the subject of this action is  
2 located in this district and that Plaintiff's cause of action arose in this district.

3  
4 **FACTUAL ALLEGATIONS:**

5 10. Plaintiff went to the Gas Station in February 2022 with the intention to  
6 avail himself of its goods or services motivated in part to determine if the  
7 defendants comply with the disability access laws. Not only did Plaintiff  
8 personally encounter the unlawful barriers in February 2022, but he wanted  
9 to return and patronize the business two more times but was specifically  
10 deterred due to his actual personal knowledge of the barriers gleaned from  
11 his encounter with them.

12 11. The Gas Station is a facility open to the public, a place of public  
13 accommodation, and a business establishment.

14 12. Unfortunately, on the date of the plaintiff's visit, the defendants failed  
15 to provide wheelchair accessible parking in conformance with the ADA  
16 Standards as it relates to wheelchair users like the plaintiff.

17 13. The Gas Station provides parking to its customers but fails to provide  
18 wheelchair accessible parking in conformance with the ADA Standards.

19 14. A problem that plaintiff encountered was that there was no access aisle  
20 that accompanied the ADA parking stall. What is more, there was no striping  
21 whatsoever for the lone parking stall ostensibly designed for persons with  
22 disabilities. There was also no ADA signage in front of the parking stall. All  
23 that remained of the parking stall ostensibly reserved for persons with  
24 disabilities was a faded International Symbol of Accessibility logo.

25 15. Plaintiff believes that there are other features of the parking that likely  
26 fail to comply with the ADA Standards and seeks to have fully compliant  
27 parking for wheelchair users.

28 16. On information and belief, the defendants currently fail to provide

1 wheelchair accessible parking.

2 17. Additionally, on the date of the plaintiff's visit, the defendants failed to  
3 provide wheelchair accessible paths of travel in conformance with the ADA  
4 Standards as it relates to wheelchair users like the plaintiff.

5 18. The Gas Station provides paths of travel to its customers but fails to  
6 provide wheelchair accessible paths of travel in conformance with the ADA  
7 Standards.

8 19. One problem that plaintiff encountered was that there was an  
9 unramped step leading to the Gas Station store entrance.

10 20. Plaintiff believes that there are other features of the paths of travel  
11 that likely fail to comply with the ADA Standards and seeks to have fully  
12 compliant paths of travel for wheelchair users.

13 21. On information and belief, the defendants currently fail to provide  
14 wheelchair accessible paths of travel.

15 22. Moreover, on the date of the plaintiff's visit, the defendants failed to  
16 provide accessible door hardware in conformance with the ADA Standards as  
17 it relates to users like the plaintiff.

18 23. The Gas Station provides door hardware to its customers but fails to  
19 provide accessible door hardware in conformance with the ADA Standards.

20 24. The problem that plaintiff encountered was that the entrance door  
21 hardware at the Gas Station store had a panel style handle that required tight  
22 grasping to operate.

23 25. Plaintiff believes that there are other features of the door hardware  
24 that likely fail to comply with the ADA Standards and seeks to have fully  
25 compliant door hardware.

26 26. On information and belief, the defendants currently fail to provide  
27 accessible door hardware.

28 27. The failure to provide accessible facilities created difficulty and

1 discomfort for the Plaintiff.

2 28. These barriers relate to and impact the plaintiff's disability. Plaintiff  
3 personally encountered these barriers.

4 29. As a wheelchair user, the plaintiff benefits from and is entitled to use  
5 wheelchair accessible facilities. By failing to provide accessible facilities, the  
6 defendants denied the plaintiff full and equal access.

7 30. The defendants have failed to maintain in working and useable  
8 conditions those features required to provide ready access to persons with  
9 disabilities.

10 31. The barriers identified above are easily removed without much  
11 difficulty or expense. They are the types of barriers identified by the  
12 Department of Justice as presumably readily achievable to remove and, in  
13 fact, these barriers are readily achievable to remove. Moreover, there are  
14 numerous alternative accommodations that could be made to provide a  
15 greater level of access if complete removal were not achievable.

16 32. Plaintiff will return to the Gas Station to avail himself of its goods or  
17 services and to determine compliance with the disability access laws once it  
18 is represented to him that the Gas Station and its facilities are accessible.  
19 Plaintiff is currently deterred from doing so because of his knowledge of the  
20 existing barriers and his uncertainty about the existence of yet other barriers  
21 on the site. If the barriers are not removed, the plaintiff will face unlawful and  
22 discriminatory barriers again.

23 33. Given the obvious and blatant nature of the barriers and violations  
24 alleged herein, the plaintiff alleges, on information and belief, that there are  
25 other violations and barriers on the site that relate to his disability. Plaintiff  
26 will amend the complaint, to provide proper notice regarding the scope of  
27 this lawsuit, once he conducts a site inspection. However, please be on notice  
28 that the plaintiff seeks to have all barriers related to his disability remedied.

1 See *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a  
 2 plaintiff encounters one barrier at a site, he can sue to have all barriers that  
 3 relate to his disability removed regardless of whether he personally  
 4 encountered them).

5  
 6 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
 7 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 8 Defendants.) (42 U.S.C. section 12101, et seq.)

9 34. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 10 again herein, the allegations contained in all prior paragraphs of this  
 11 complaint.

12 35. Under the ADA, it is an act of discrimination to fail to ensure that the  
 13 privileges, advantages, accommodations, facilities, goods and services of any  
 14 place of public accommodation is offered on a full and equal basis by anyone  
 15 who owns, leases, or operates a place of public accommodation. See 42  
 16 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- 17 a. A failure to make reasonable modifications in policies, practices,  
 18 or procedures, when such modifications are necessary to afford  
 19 goods, services, facilities, privileges, advantages, or  
 20 accommodations to individuals with disabilities, unless the  
 21 accommodation would work a fundamental alteration of those  
 22 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 23 b. A failure to remove architectural barriers where such removal is  
 24 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
 25 defined by reference to the ADA Standards.
- 26 c. A failure to make alterations in such a manner that, to the  
 27 maximum extent feasible, the altered portions of the facility are  
 28 readily accessible to and usable by individuals with disabilities,

including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities. 42 U.S.C. § 12183(a)(2).

36. When a business provides parking, it must provide accessible parking.

37. Here, accessible parking has not been provided in conformance with the ADA Standards.

38. When a business provides paths of travel, it must provide accessible paths of travel.

39. Here, accessible paths of travel have not been provided in conformance with the ADA Standards.

40. When a business provides door hardware, it must provide accessible door hardware.

41. Here, accessible door hardware has not been provided in conformance with the ADA Standards.

42. The Safe Harbor provisions of the 2010 Standards are not applicable here because the conditions challenged in this lawsuit do not comply with the 1991 Standards.

43. A public accommodation must maintain in operable working condition those features of its facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

44. Here, the failure to ensure that the accessible facilities were available and ready to be used by the plaintiff is a violation of the law.

**II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

1 45. Plaintiff repleads and incorporates by reference, as if fully set forth  
 2 again herein, the allegations contained in all prior paragraphs of this  
 3 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
 4 that persons with disabilities are entitled to full and equal accommodations,  
 5 advantages, facilities, privileges, or services in all business establishment of  
 6 every kind whatsoever within the jurisdiction of the State of California. Cal.  
 7 Civ. Code §51(b).

8 46. The Unruh Act provides that a violation of the ADA is a violation of the  
 9 Unruh Act. Cal. Civ. Code, § 51(f).

10 47. Defendants’ acts and omissions, as herein alleged, have violated the  
 11 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of,  
 12 Plaintiff’s rights to full and equal use of the accommodations, advantages,  
 13 facilities, privileges, or services offered.

14 48. Because the violation of the Unruh Civil Rights Act resulted in  
 15 difficulty, discomfort or embarrassment for the plaintiff, the defendants are  
 16 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
 17 55.56(a)-(c).)

18  
 19 **PRAYER:**

20 Wherefore, Plaintiff prays that this Court award damages and provide  
 21 relief as follows:

22 1. For injunctive relief, compelling Defendants to comply with the  
 23 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
 24 plaintiff is not invoking section 55 of the California Civil Code and is not  
 25 seeking injunctive relief under the Disabled Persons Act at all.

26 2. For equitable nominal damages for violation of the ADA. See  
 27 Uzuegbunam v. Preczewski, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8,  
 28 2021) and any other equitable relief the Court sees fit to grant.

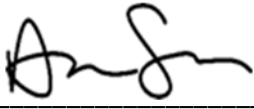


1        3. Damages under the Unruh Civil Rights Act, which provides for actual  
2 damages and a statutory minimum of \$4,000 for each offense.

3        4. Reasonable attorney fees, litigation expenses and costs of suit,  
4 pursuant to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

5  
6 Dated: March 4, 2022

CENTER FOR DISABILITY ACCESS

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8 By:  \_\_\_\_\_

9 Amanda Seabock, Esq.  
10 Attorney for plaintiff  
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